Supreme Court, U.S.
FILED

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UNITED STATES SUPREME COURT

LOUIS F. GAINES,
Plaintiff - Petitioner

v.

WHITE RIVER ENVIRONMENTAL PARTNERSHIP, Et Al.,
Defendants - Respondents

Petition For A Writ Of Certiorari
To The United States Court Of Appeals
For The Seventh Circuit

PETITION FOR A WRIT OF CERTIORARI

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317 -- 283 - 4821

78 pp

QUESTIONS FOR REVIEW

1. For EEOC Charge #240-A1-0803: Since Pro Se Plaintiff: (1) timely opposed the Defendants' unlawful Age & Race discrimination in employment; and, (2) immediately received a "Hostile Reply" from the Defendants, who "Silenced" him - was the Plaintiff required to subject himself to additional discrimination, humiliation, retaliation, and/or threats - in order to qualify for judicial relief? See PP. 5 - 6.

2. For EEOC Charge #240-A1-0879: (1) charge was filed against the Defendants on January 29, 2K01; (2) for the "Date Discrimination Took Place," Pro Se Plaintiff listed "12/26/2000" and "1/11/2001; (3) the District Court overlooked this charge in its review; and, (4) the Seventh Court determined that the above charge was untimely filed. If Pro Se Plaintiff has been denied due process, and/or equal protection of the law, then what relief is due? See PP. 7-8.

3. For EEOC Charge #240-A1-1110: (1) on January 22, 2K01, EEOC Charge #240-A1-0803 was filed; (2) on January 25, 2K01, the Defendants suddenly required the Operations Specialists to perform large scale, and long term "Union duty: cleaning primarily;" (3) the Plaintiff, however, was required to do more than his fair share of cleaning, and to document such cleaning, unlike others; and, (4) the Lower Courts determined that the Plaintiff has <u>not</u> suffered any adverse treatment. If the Plaintiff has been denied due process and/or equal protection of the law, then what relief is due? See P. 8.

4. For EEOC Charge #240-99-1616: (1) in 1999, the Defendants were the first to file a summary judgment motion against Pro Se Plaintiff; (2) he was not allowed to amend his Complaint on any authority, or under any circumstance; (3) in 2K01, Pro Se Plaintiff was the first to file a summary judgment motion; (4) afterwards, the Defendants filed two motions to amend, and they were granted; and (5), the Defendants were then granted a favorable summary judgment, which was partially influenced by one or both amended motions. If the Plaintiff has been denied due process, and/or equal protection of the law, then what relief is due? See P. 9.

5. Reference the "Doctrine of Continuing Violation:" (1) between the period of December 1, 1999 and June 1, 2K03; Pro Se Plaintiff has filed five unlawful discrimination in employment suits against the Defendants; (2) such suits were provoked by the Defendants, and Pro Se Plaintiff's attempt to defend or protect his civil and constitutional rights; (3) the Lower Courts have determined that some complaints were untimely filed; and, (4) the Lower Courts have consistently denied all relief. If the Lower Courts have erroneously withheld the protection of the "Doctrine of Continuing Violation" from Pro Se Plaintiff - then what relief is due? See P. 16,

6. Reference the Plaintiff's on-the-job, "Irreparable Injury" that the Defendants caused him to willfully suffer during "Discovery," in 1999. What relief, if any, is the Plaintiff due? See PP. 3-5.

7. What other relief is the Plaintiff due?

LIST OF PARTIES

1. LOUIS F. GAINES, Petitioner
   5337 North College Avenue
   Indianapolis, IN 46220-3141

2. WHITE RIVER ENVIRONMENTAL PARTNERSHIP, Et. Al., Respondent
   2700 South Belmont Avenue
   Indianapolis, IN 46221

3. IWC RESOURCES CORPORATION, Managing Partner, and Respondent
   1220 Waterway Boulevard
   Indianapolis, IN 46206

4. SUEZ, Partner, and Respondent
   16 Rue De La Ville Leveque
   75383 Paris Cedex 08
   France

5. UNITED WATER SERVICES, Inc., Partner, and Respondent
   200 Old Hook Road
   Harrington Park, NJ 07640

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UNITED STATES CONSTITUTION:

Fifth Amendment: PP. 10, 12 15, 17 & 19.

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TITLE 28 U. S. C.

§ 1254, P. 1.

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§ 1391(b), P. 2.

§ 1981, PP. 2, 11, 12, 15, 17 & 19.

§ 1981(c), PP. 11 & 12.

§ 1983, P. 2.

§ 2000e-2(a), PP. 2 & 12.

§ 2000e-2(k)(c)(2), PP. 2 & 12.

§ 2000e-2(m), P. 2.

§ 2000e-3(a), PP. 2, 12 & 19.

§ 2000e-5, P. 2.

FEDERAL RULES OF:

Appellate Procedure, Rule 35, PP. 2 & 17.

Civil Procedure, Rule 56, PP. 2, 11, 12, 15, 17 & 19.

Evidence, Rule 406, PP. 2 & 21.

CITATION OF OPINIONS OR REPORTS

LOUIS F. GAINES v. WHITE RIVER ENVIRONMENTAL PARTNERSHIP, Et Al.:

530 U.S. 1230; 120 S. Ct. 2661; 147 L. Ed. 2d 275; June 12, 2000.

534 U.S. 952; 122 S. Ct. 349; 151 L. Ed. 2d 263; October 9, 2001.

202 F.3d 272; January 3, 2000.

248 F.3d 1157; March 23, 2001

No. 02-3849, April 4, 2003; see Appendix A.

IP-01-1158-H/K, September 30, 2002; Ibid., B.

No. 023849, May 12, 2003; Ibid., C.

IP 98-1741-C-M/S, August 19, 1999, and October 25, 1999; 00-3802, March 23, 2001, and May 17, 2001; Ibid., D

JURISDICTION OF THE SUPREME COURT

One, the "Order" of the Seventh Court was entered on April 4, 2K03. See Appendix A., P. 1. Two, Rule 11 does not apply. Three, the Petition for a Rehearing was denied on May 12, 2K03. Ibid., B., P. 29. Finally, this matter comes to the Supreme Court on the authority of Title 28, U.S.C., § 1254.

CONSTITUTION & OTHER AUTHORITY

United States Constitution: the Fifth, Eighth, and Thirteenth Amendments. See Appendix E, Page 43.

Title 29, U.S.C., §§ 623(a) & 623(d). Ibid.

Title 42, U.S.C., §§ 1981, 2000e-2(a), 2000e-2(k)(c)(2), 2000e-2(m), and 2000e-3(a). Ibid., PP. 44-5.

Federal Rules of: (1) Appellate Procedure, Rule 35; (2) Civil Procedure, Rule 56; and, (3) Evidence, Rule 406 - Ibid., PP. 45-7.

STATEMENT OF THE CASE

Jurisdiction Of The Lower Courts:

1. This case of unlawful discrimination in employment was timely brought to the United States District Court, Southern District of Indiana, at Indianapolis; on August 9, 2K01. Jurisdiction, however, was based on the following authority: (1) Title 28, U.S.C., §§ 1331, 1332 & 1343(a); (2) Title 29, U.S.C., §§ 626(c), 626(d), 659, 660, and 666; (3) Title 42, U.S.C., §§ 1391(b), 1981, 1983, and 2000e-5; and, (4) the United States Constitution, First, Fifth, Eighth, and Thirteenth Amendments.

2. On September 30, 2K02, the District Court

entered a summary judgment for the Defendants. On October 25, 2K02, the case was timely appealed to the Seventh Court, and on the authority of Title 28, U.S.C., § 1291.

Material Facts To Consider:

Motions to amend, and summary judgments:

1. On October 2, 2K02, Pro Se Plaintiff filed a summary judgment motion, with all the supporting documents. See Appellant's Brief, Appendix: "Docket Sheet," P. 37, Items #14-18.

2. On February 13, 2K02, the Defendants filed a motion to amend their "Answer." Ibid., #35. On September 30, 2K02, the District Court granted the Defendants' motion to amend. Ibid., P. 40, #83. Also see current Appendix B, P. 13., ¶ 8.

3. On March 8, 2K02, the Defendants' motion for summary judgment was filed. Appellant's Brief, Appendix, P. 38, Items #52-56.

4. On April 1, 2K02, the Defendants filed a motion to correct their defective affidavits. Ibid., P. 39, #66. On September 30, 2K03, the District Court granted the above motion. Ibid., P. 40, #83. Also see current Appendix B, P. 11, ¶ 4.

5. After granting the Defendants' motions to amend, the Defendants' summary judgment motion was then granted, and the Plaintiff's was denied. See Appellant 's Brief, Appendix, P. 41; and, current Appendix B, P. 26 & 27.

6. In *Gaines v. White River Environmental Partnership, et al.*, IP-98-1741-C-M/S; the Defendants caused the Plaintiff to suffer an on-the-job, "Irreparable Injury" on June 2, 1999. On June 10, 1999, the Plaintiff: (1) filed a motion to amend; (2) he was not allowed to amend his Complaint before July 9, 1999, the day in which the Defendants' summary judgment motion was filed; and, (3) he was not allowed to amend after July 9, 1999, either. See Appellant's Brief, P. 6., to include reference to medical documentation. Also see current Appendix D, P. 34., and other relevant evidence on PP. 32-38.

7. On March 23, 2001, the Seventh Court affirmed the summary judgment for the Defendants in ..., 98-1741-C-M/S. See Appendix D., PP. 38-9.

8. On May 17, 2001, the Seventh fined Pro Se Plaintiff $1,000.00 for filing a "frivolous appeal," as determined by the Seventh Court. Ibid., P. 41.

9. On April 4, 2K03, the Seventh Court affirmed the summary judgment for the Defendants in ..., IP-01-1158-C-H/K. Ibid., Appendix A., P. 3.

10. In its "Order" of April 4, 2K03, the Seventh Court issued another warning to Pro Se Plaintiff, about bringing "frivolous arguments" to the Seventh Court. Ibid., P. 8.

11. On May 12, 2K03, Pro Se Plaintiff's Petition for a Rehearing was denied. Ibid., Appendix C., P. 30.

EEOC Charge #240-A1-0803:

1. Charge alleged unlawful Age and Race discrimination.

2. As early as June, 1997, the Plaintiff attempted to get the Defendants to allow him to serve as a replacement for a Shift Supervisor. See Appellant Reply Brief,, Appendix, P. 28.

3. In April or May 2K, the Defendants secretly, or very selectively, notified Mr. G. Sawyer, 33, and "White," that they were looking for someone to serve as a temporary Shift Supervisor. The Defendants also withheld the same information from the Plaintiff, 55, and "Black." See Appellant's Brief, PP. 9-10.

4. On May 11, 2K, the Defendants used E-mail to widely announce Mr. G. Sawyer's selection. See Appellant's Reply Brief, Appendix, P. 30: Ex. #307.

5. On May 11, 2K, Pro Se Plaintiff opposed Mr. Sawyer's selection to serve as a temporary Shift Supervisor. Ibid., Appendix, P. 31: Ex. #308.

6. On May 12, 2K, the Defendant issued a hostile reply to Pro Se Plaintiff. Ibid., Appendix, P. 32: Ex. #309.

7. Also on May 12, 2K, the Defendants "Silenced" Pro Se Plaintiff by writing, "Louis, ..., I expect to hear no more from you on this subject." Ibid., Appendix, P. 33: Ex. #310.

8. After being "Silenced" on May 12, 2K, the Plaintiff was discouraged from competing with Mr. Sawyer for this employment opportunity. See Appellant's Brief, P. 10, ¶ Three, Item Seven. Also see Appellant's Reply Brief, P. 9, ¶ 21.

9. Between the period of May 12, 2K, and October 1, 2K, Mr. Sawyer released information, in the presence of the Plaintiff, that he, Mr. Sawyer; has already been promoted, but not officially. Appellant's Reply Brief; P. 9 ¶ 22.

10. On October 1, 2K, the Defendants promoted Mr. G. Sawyer to the position of Shift Supervisor, or Supervising O & M Specialist, by another name. Ibid., Appendix, P. 36: Ex. #315, Second Page.

11. After promoting Mr. Sawyer on October 1, 2K, this same position was then posted on October 24, 2K, for others to apply or bid. See ¶ 10, above.

12. In its "Order " of April 4, 2K03, the Seventh Court did the following: (1) determined that EEOC Charge #240-A1-0803 was timely; (2) that Pro Se Plaintiff is not entitled to any relief, because he failed to apply for the position that Mr. Sawyer was promoted to; (3) that the Plaintiff has not suffered any adverse treatment; and, (4), affirmed the ruling of the District Court to this extent. See Appendix A., PP. 5-7.

13. On May 12, 2K03, and to the extent of the above, Pro Se Plaintiff's Petition for a Re-hearing was denied. Ibid., Appendix C, P. 30.

EEOC Charge #240-A1-0879

1. Charge was filed on January 29, 2K01, alleging unlawful Race discrimination, and Retaliation. See Complaint, P. 17. Also see Appellant's Brief, PP. 11-13, starting with ¶ 9.

2. For the "Date Discrimination Took Place," the Plaintiff listed "12/26/2000 ," and "1/11/2001;" and "Continuing. Complaint, P. 17.

3. In granting the Defendants' motion for a summary judgment, on September 30, 2K02, the District Court completely overlooked this charge, or failed to address it. See Appendix B., PP. 15-28. Also see Appellant's Brief, P. 13.

4. The Seventh Court, in its "Order" of April 4, 2K03; denied all relief on the claim that EEOC Charge #240-A1-0879 was untimely filed. Ibid.. Appendix A., P. 5. Also see ¶¶ 1 & 2 above.

5. In a step-by-step approach, with supporting exhibits, Pro Se Plaintiff attempted to reveal to the Seventh Court that EEOC Charge #240-A1-0879 was timely filed in every respect. See Appellant's Petition for a Rehearing En Banc, PP. 4-6.

6. On May 12, 2K03, all relief was denied by the following standard. Ibid., P. 30:

ORDER

On consideration of the petition

for rehearing en banc filed by plaintiff, no judge in active service has requested a vote on the petition for rehearing en banc, and all the judges on the original panel have voted to deny rehearing. The petition is therefore DENIED.

EEOC Charge #240-A1-1110:

1. Charge alleged unlawful Age and Race discrimination, and Retaliation. See Complaint, P. 20. Also see Appellant Brief, PP. 13-14.

2. On January 25, 2K01, the Defendants told the Plaintiff that a "Verbal" agreement had been reach with the local union to allow the Operation Specialist to perform "Union Duty." Ibid.

3. When the Plaintiff requested a written statement to document the above claim, the Defendants denied the request. Ibid.

4. Forcing the Plaintiff to perform "Union Duty," placed him at a greater risk of being injured on-the-job; the assignment discouraged continued employment, and it lowered the status of the "Operation Specialist." Ibid.

5. The Seventh Court determined the following: (1) the Plaintiff has not suffered adverse treatment, and (2) the Plaintiff has failed to establish prima facie discrimination. See Appendix A., PP. 3 & 6.

6. The Petition for a Rehearing was also denied to this extent. See Appendix C., P. 30.

Plaintiff's "Irreparable Injury:"

1. See P. 4., ¶ 6.

2. Since June 10, 1999, Pro Se Plaintiff has been trying to hold the Defendants accountable for the above injury; however, such attempts have failed. Ibid., P. 4.

3. Under no circumstance, and under no authority has Pro Se Plaintiff been able to hold the Defendants responsible for his on-the-job, "Irreparable Injury," which needlessly took place on June 2, 1999.

4. EEOC Charge #240-99-1616, May 7, 1999; for example, does not contain any language relating to an "Irreparable Injury," because the foregoing injury occurred on June 2, 1999. See Complaint, P. 12. Also see Appellant's Brief,, PP. 7-9; see Appellant's Reply Brief, PP. 3-8; see Appellant's Petition For A Rehearing En Banc, PP. 2-4; and, see Appendix D., PP. 32-37.

Time limitations:

In its "Order" of April 4, 2K03, the Seventh Court wrote the following. See Appendix A., PP. 4-5:

... Title VII and the ADEA, however,

require plaintiff to meet strict deadlines: in Indiana, EEOC charges must be filed within 300 days of the alleged incident of race or sex discrimination, and within 180 days of the alleged incident of age discrimination.

ARGUMENT

Summary: The evidence fairly and sufficiently show that the lower courts have consistently used a standard of review that is inconsistent with the relevant standards of the United States Supreme Court, and the intent of the United States Congress. In other words, Pro Se Plaintiff has been categorically denied due process and equal protection of the law; therefore, the review of the Supreme Court is necessary for: (1) the benefit of all, (2) providing a standard in which the Plaintiff can be granted all due relief; and (3) preventing the Defendants from being allowed to willfully violate the Plaintiff's civil and constitution rights and then escape all accountability or punishment for such unlawful conduct.

I. Pro Se Plaintiff Has Been Denied Due Process & Equal Protection Of The Law, As It Applies To Motions To Amend, And Summary Judgment Procedure

A. Legal standards

1. United States Constitution, Fifth Amendment;

Title 42 U.S.C. § 1981, 1981(c); Federal Rules of Civil Procedure, Rule 56(c) & 56(e). See Appendix E, PP. 43-8.

2. Court cases:

Anderson v. Liberty Lobby, Inc., 106 S.Ct. 2505; 1986:

> 2. Federal Civil Procedure
>
> Substantive law will identify which facts are material for purpose of summary judgment, as only disputes over facts that might affect the outcome of suit under the governing law will properly preclude the entry of summary judgment; factual disputes that are irrelevant or unnecessary will not be counted. Federal Rules Civ. Proc. Rule 56(c), 28 U.S.C.A.

Gilbert v. Homar, 138 L Ed 2d 120, 121; 1997:

> Constitutional Law
>
> 4. Due process is not a technical conception with a fixed content unrelated to time, place, and circumstances; rather, it is flexible and calls for such procedure protections as the particular situation demands.

B: Argument: One, the evidence shows that

when the Defendants were the first to file a motion for summary judgment, Pro Se Plaintiff was not allowed to amend on any authority, or under any circumstances. See P. 4. Two, when the Plaintiff was the first to file a summary judgment motion, the Defendants were allowed to freely amend, or such motions were freely granted. See P. 3. Three, the Defendants' motions to amend were designed to affect the outcome of the case, and they did. See P. 3., ¶ 5. Four, based on the foregoing, the Defendants' summary judgment motion was inappropriately granted, and the Plaintiff's was inappropriately denied. Five, the Plaintiff is entitle to all due relief. See PP. 3-4.

II. Once An Unlawful Employment Practice Is Reasonably Opposed - The Adversely Treated Employee Is Not Required To Suffer Additional Discrimination, Humiliation, Retaliation, Or Threats; In Order To Obtain Judicial Relief

A. Legal standards:

1. United States Constitution, the Fifth, Eighth, and Thirteenth Amendments; Title 29, U.S.C., § 623(a), and 623(d); Title 42, U.S.C., §§ 1981, 1981(c), 2000e-2(a), 2000e-2(k)(c)(2), 2000e-3(a); and, Federal Rules of Civil Procedure, Rules 56(c) & 56(e). See Appendix E., PP. 43-8

2. Court cases: See *Anderson v. Liberty Lobby, Inc.*, and *Gilbert v. Homar;* P. 11. Also see the following cases:

Harris v. Forklift Systems, Inc., 126 L Ed -

2d 295; 1993:

> Civil Rights § 7.6, 7.7
>
> ...; Title VII comes into play, however, before the harassing conduct leads to a nervous breakdown, and (2) ..., the very fact that the discriminatory conduct was so severe or pervasive that it created a work environment abusive to employees because of their race, gender, religion or national origin offends Title VII's broad rule of workplace equality.

O'Connor v. Consolidated Coin Caterers Corp., 134 L. Ed 2d 433; and, 116 S.Ct. 1307, 1308; 1998:

> Decision: In suit under Age Discrimination in Employment Act, (1) replacement by person under 40 held not proelement of prima facie case, and (2) fact that replacement is substantially younger held to be more reliable indicator.
>
> 3. Civil Rights
>
> The ADEA prohibits discrimination on the basis of age and not class membership Age Discrimination Act of 1967, § 2 et seq., as amended, 29 U.S.-C. A., § 621 et seq.

McDonnell Douglas Corp. v. Green, 93 S.Ct. 1817, 1818; 1973.

4. Civil Rights

In implementation of employment and personnel decisions, Title VII of the Civil Rights Act of 1964 tolerates no racial discrimination, subtle or otherwise. Civil Rights Act of 1964, § 701 et seq., 42 U.S.C.A. § 2000e et seq.

B. Argument: One, see PP. 5-6. Two, any form of unlawful discrimination in employment - is an act of "Adverse Treatment; and, the victim is entitled to reasonable relief at that point. Three, once an unlawful employment practice is reasonably opposed, the complaining employee, or the victim, is not required to suffered additional discrimination, humiliation, or threats - in order to obtain judicial relief. Four, Pro Se Plaintiff reasonably and timely opposed the Defendants' unlawful Age and Race discrimination against him. Five, afterwards, the Defendants became "Hostile" toward the Plaintiff, and he was "Silenced." Six, the Defendants used an unlawful selection procedure that discriminated against the Plaintiff on the basis of Age and Race. Seven, since the Defendants' summary judgment motion was inappropriately granted, and since the Plaintiff's was inappropriately denied - it follows that the Plaintiff is entitled to all due relief.

III. EEOC Charge #240-A1-0879 Was Very Timely Filed

A. Legal standards:

1. See P. 9., "Time limitations."

2. See United States Constitution, Fifth Amendment; Title 42, U.S.C., § 1981; and the Federal Rules of Civil Procedure, Rule 56; Appendix E., PP. 43-8.

B. Argument: One, see PP. 7-8. Two, the Lower Courts could not reasonably ask for a more timely filing. Three, to the extent of the foregoing, Pro Se Plaintiff has been denied due process and equal protection of the law; and, the summary judgment for the Defendants was inappropriately entered, and the Plaintiff's was inappropriately denied.

IV. Pro Se Plaintiff Is Entitled To Protection Of "Continuing Violation Doctrine," Too

A: Legal standards:

1. See United States Constitution, Fifth Amendment; Title 42 U.S.C., § 1981; and, the Federal Rules of Civil Procedure, Rule 56; Appendix E., PP. 43-8.

2. See the case of *Gilbert v. Homar*, P. 11. Also see the following cases:

McCormick v. City of Chicago, 30 F.3d 319 (7th Cir. 2000):

5. Federal Civil Procedure

Pro se complaints are to be liberally construed and not held to the stringent standards expected of pleadings drafted by lawyers.

Filipovic v. K & R Express Systems, Inc., 176 F.3d 390, 391 (7th Cir. 1999):

2. Civil Rights

Continuing violation doctrine allows a Title VII complainant to obtain relief for time-barred act of discrimination by linking it with acts that fall within the statutory limitations periods; courts will then treat the series of acts as one continuous act ending within limitations period. Civil Rights Act of 1964, § 706(d), as amended, 42 U.S.-C.A. § 2000e-5(e).

3. Civil Rights

Courts will consider three factors in determining whether employee has established continuing violation under Title VII: (1) whether the acts involve the same subject matter; (2) the frequency at which they occur; and (3) the degree of permanence of alleged acts of discrimination, which should trigger an employee's awareness of and duty to assert his or her rights. Civil Rights Act of 1964, § 706(d), as amended, 42 U.S.C.A. § 2000e-5(e).

B. Argument: One, see PP. 1-17. Two, the Defendants continually and willfully violate the Plaintiff's civil and constitutional rights, but absolutely nothing is ever done by the Lower Courts to hold them accountable. Three, the Defendants are not above the law. Four, the Defendants must be made to comply with the requirements of "Equal Employment Opportunity." Five, Pro Se Plaintiff is entitled to the protection of the "Continuing Violation Doctrine," like all other members of a protected class. Six, in at least one instance, the Seventh Court found one EEOC charge timely filed. See P. 6., ¶ 12. Seven, to the extent of the above, the Defendants' summary judgment was inappropriately entered, and the Plaintiff's was inappropriately denied. Eight, Pro Se Plaintiff is entitled to all due relief.

V. Pro Se Plaintiff's Petition For A Rehearing En Banc Was Denied In Error

A. Legal standards

1. See the United States Constitution, Fifth Amendment; Title 42, U.S.C., § 1981; and, the Federal Rules of Civil Procedure, Rule 56; Appendix E., PP. 43-8.

2. See the Federal Rules of Appellate Procedure, Rule 35. Ibid., P. 42:

> Rule 35. En Banc Determination
>
> (b)(1)(A) the panel decision conflicts with a decision of the United States Supreme Court or of the court to which

the petition is addressed (with citation to the conflicting case or cases) and consideration by the full court is therefore necessary to secure and maintain uniformity of the court's decisions; or

(b)(1)(B) the proceeding involves one or more questions of exceptional importance, each of which must be concisely stated; for example, a petition may assert that a proceeding presents a question of exceptional importance if it involves an issue on which the panel decision conflicts with the authoritative decisions of the United States Court of Appeals that addressed the issue.

(f) Call for a Vote. A vote need not be taken to determine whether the case will be heard or reheard en banc unless a judge calls for a vote.

3. Also see the case of *Gilbert v. Homar,* P. 11.

B. Argument: One, see PP. 7-8. Two, to allow all the existing errors to stand against the Plaintiff, a panel of the Seventh Court denied the Petition for a Rehearing En Banc, by presenting or writing a "Standard" which is contrary to the published standard of the Seventh Court, and the United States Congress. See P. 7., ¶ 6, and compare it with Rule 35(f), as quoted above! Three, one "Standard" is clearly different than the other!

VI. Pro Se Plaintiff Is Entitled To Fair Monetary Relief For The On-The-Job, "Irreparable Injury" That The Defendants Have Willfully Caused Him To Suffer

A. Legal standards:

1. See the United States Constitution, the Fifth, Eighth, and Thirteenth Amendments; Title 29, U.S.C., § 623(d); Title 42, U.S.C., §§ 1981, and 2000e-3(a); and, the Federal Rules of Civil Procedure, Rule 56 - Appendix E., PP. 42-8.

2. See the court cases of *Anderson v. Liberty Lobby, Inc., & Gilbert v. Homar,* P. 11.; *Harris v. Forklift Systems, Inc.,* PP. 12-3; *McDonnell Douglas Corp. v. Green,* P. 14.; and, *Filipovic v. K & R Express Systems, Inc.,* P. 16.

3. Also see the following cases:

Lujan v. Defenders of Wildlife, 112 S.Ct 2130, 2131; 1992:

> 7. Federal Civil Procedure
>
> At the pleading stage, general factual allegations of injury resulting from defendant's conduct may suffice to establish standing; in response to summary judgment motion, plaintiff can no longer rest on mere allegations but must set forth by affidavit or other evidence the specific facts which will be taken as true for purpose of summary judgment; at the final stage, those

facts if controverted, must be supported adequately by evidence adduced at trial. Fed. Rules Civ. Proc. Rule 56(e), 28 U.S.C.A.

Curtis 1000, Inc. v. Suess, 24 F.3d 941 (7th Cir. 1994):

3. Torts

Tort of intentional interference with advantageous business relations no longer requires that relation interfered with be one embodied in formal contract.

Kolstad v. American Dental Ass'n, 119 S.Ct. 2118, 2119; 1999:

6. Damages

Egregious or outrageous acts may serve as evidence supporting inference of evil motive required to impose punitive damages.

B. Argument: One, see PP. 3-4, and P. 6. Two, a double-standard has surely been maintained against Pro Se Plaintiff, which has produced a "Substantial Injustice" against him. Three, the Defendants are guilty of a willful on-the-job, "Irreparable Injury" against the Plaintiff. Four, every summary judgment for the Defendants should be reversed, because such judgments were

inappropriately entered. Five, the Defendants are not above the "Law." Six, the Plaintiff is entitled to all due relief.

Conclusion

The evidence fairly and sufficiently show that the Lower Courts have entered judgments that are in conflict with relevant rulings of the United States Supreme Court, and the intent of Congress. Beneath the foregoing rulings lies the constant and real threat that Pro Se Plaintiff will be sanctioned by the Seventh Court for trying to defend, and protect his civil and constitutional rights against the Defendants, who are willful violators of the laws of "Equal Employment Opportunity." See PP. 1-21; Appendix A., P. 8; and, Appendix E., P. 47, " Rule 406." Clearly, the review of the Supreme Court is needed - in light of all the above. Pro Se Plaintiff is entitled to all due relief. See PP. 10-21, and Appendix E., PP. 43-48; for the authority to grant such relief.

Sincerely,

LOUIS F. GAINES, July 31, 2K03
Pro Se Plaintiff,